

<sup>1</sup> See Docket No. 02-2080 (issued July 18, 2003).

refusing an offer of suitable work.<sup>2</sup> The facts of this case, as set forth in the prior decision, are incorporated herein by reference.

On December 27, 1999 appellant, then a 45-year-old distribution/window clerk, filed an occupational disease claim alleging that she developed bilateral carpal tunnel syndrome due to the repetitive motion activities required in her job. She underwent hand surgery on August 23 and November 28, 2000. The Office accepted her claim for bilateral carpal tunnel syndrome sustained on July 1, 1999. Effective September 30, 2000 appellant was placed on the periodic compensation rolls for temporary total disability.<sup>3</sup>

In a May 14, 2003 report, Dr. Daniel Perri, an attending Board-certified physiatrist, provided findings on examination. He diagnosed bilateral carpal tunnel release with minimal improvement, chronic myofascial pain syndrome and possible fibromyalgia. In a June 4, 2003 report, Dr. Perri diagnosed chronic myofascial pain syndrome. Upper extremity strength, deep tendon reflexes and sensation were normal. No further reports were received from Dr. Perri.

On August 11, 2006 the Office referred appellant to Dr. Patrick J. Hughes, a neurologist, together with a statement of accepted facts, a list of medical questions and the case file, to determine whether appellant had any residuals of her accepted bilateral carpal tunnel syndrome.

In an August 22, 2006 report, Dr. Hughes reviewed the medical history and provided findings on physical examination. He diagnosed work-related status post open release for bilateral carpal tunnel syndrome and chronic neck and arm pain due to muscle and ligamentous strain, not accepted as work related. He stated:

“For the accepted condition of bilateral carpal tunnel [syndrome], this is related to [appellant’s] employment ... by direct cause. Her occupation demanded repetitive hand use, which is an accepted cause of bilateral carpal tunnel [syndrome]. It is permanent. She has reached maximum medical improvement.

“[Appellant] does not require any further treatment for her carpal tunnel [syndrome]. There is no reason that she cannot work eight hours a day with no restrictions. This is based on the following facts. She had surgery for bilateral carpal tunnel [syndrome] and has done well. There is no objective evidence to support the fact that the ligamentous strain causing myofascial pain is still active.

“[Appellant] has ... no objective findings on neurological examination to substantiate her continuing complaints of disabling pain.... She can work without restrictions.”

On October 18, 2006 the Office advised appellant of its proposed termination of her wage-loss compensation and medical benefits on the grounds that the weight of the medical

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<sup>2</sup> Following the Board’s July 18, 2003 decision, appellant’s wage-loss compensation was reinstated.

<sup>3</sup> Appellant has a separate claim accepted for a left shoulder and cervical strain sustained on May 23, 1989.

evidence, represented by the opinion of Dr. Hughes, established that she had no residuals from her accepted bilateral carpal tunnel syndrome.

On May 16, 2007 the Office terminated appellant's wage-loss compensation and medical benefits as of June 1, 2007 on the grounds that the weight of the medical evidence established that she had no residuals from her work-related bilateral carpal tunnel syndrome sustained on July 1, 1999.<sup>4</sup>

### **LEGAL PRECEDENT**

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.<sup>5</sup> The Office may not terminate compensation without establishing that the disability ceased or that it is no longer related to the employment.<sup>6</sup> The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>7</sup> Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability. To terminate authorization for medical treatment, the Office must establish that a claimant no longer has residuals of an employment-related condition that require further medical treatment.<sup>8</sup>

### **ANALYSIS**

Appellant's claim for an injury on July 1, 1999 was accepted for bilateral carpal tunnel syndrome. Surgery was authorized and performed in 2000.

The Board finds that Dr. Hughes' thorough and well-rationalized August 22, 2006 report establishes that appellant has no residuals from her accepted bilateral carpal tunnel syndrome sustained on July 1, 1999. He reviewed the medical history and provided physical findings on examination. Dr. Hughes found that there was no objective evidence to support continuing residuals from appellant's bilateral carpal tunnel syndrome. He provided medical rationale in support of his opinion. Dr. Hughes noted that appellant underwent surgery which was successful. His report establishes that appellant has no continuing disability or medical condition causally related to her accepted bilateral carpal tunnel syndrome sustained on July 1, 1999. As noted, no additional medical evidence was submitted to support continuing residuals causing disability for work. The most recent report of Dr. Perri was in 2003. Therefore, the Office met its burden of proof in terminating appellant's wage-loss compensation and medical benefits effective June 1, 2007 based on the medical opinion of Dr. Hughes.

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<sup>4</sup> Subsequent to the May 16, 2007 Office decision, appellant submitted additional evidence. The Board's jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. See 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal.

<sup>5</sup> *Barry Neutach*, 54 ECAB 313 (2003); *Lawrence D. Price*, 47 ECAB 120 (1995).

<sup>6</sup> *Id.*

<sup>7</sup> See *Del K. Rykert*, 40 ECAB 284 (1988).

<sup>8</sup> *Mary A. Lowe*, 52 ECAB 223 (2001); *Wiley Richey*, 49 ECAB 166 (1997).

**CONCLUSION**

The Board finds that the Office met its burden of proof in terminating appellant's wage-loss compensation and medical benefits effective June 1, 2007.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 16, 2007 is affirmed.

Issued: March 7, 2008  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board